



Office of Institutional Equity

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CONFIDENTIAL
NOTICE OF DETERMINATION

September 8, 2021

Dr. Gary Roemer
NMSU
MSC 4901
P.O. Box 30003
Las Cruces, NM
Sent electronically to: gwroemer11@gmail.com

RE: NMSU Case File #2020-2021-094A-D

Dr. Roemer:

This matter came before Hearing Officer, Jacquelyn Archuleta-Staehlin, esq. ("Hearing Officer") for hearing on August 17, 2021, based on allegations that you subjected Complainants Buskirk, Salas, Schweiger and McKibben to discriminatory conduct. The Hearing Officer has reached a determination ("Determination") in each case. The Determinations are attached.

The Hearing Officer has reached a Determination of **Responsible**.

The Hearing Officer's rationale for this decision is found in the attached Final Decision. Procedural steps followed are indicated below.

A. Formal Complaint(s)

On September 10, 2020, Allison Salas filed a formal complaint with the Office of Institutional Equity ("OIE"). On September 13, 2020, Brittany Schweiger filed a formal complaint with OIE. On September 14, 2020, a complaint was filed by Department Head Matthew Gompper, on behalf of Jessica Buskirk. On October 17, 2020, Fiona McKibben filed a formal complaint with OIE. On December 2, 2020, Laura Castille, NMSU Title IX Coordinator, issued a Complaint against Respondent alleging discriminatory conduct against Jessica Buskirk. On December 21, 2020, Castille issued a second Complaint alleging a pattern of conduct or behavior by Respondent.

EXHIBIT

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Complaints were investigated pursuant to [*NMSU Administrative Policy and Rule 3.25, Prohibition of All Forms of Unlawful Discrimination*](#).

In accordance with the NMSU Policy and Procedures, Notice of Allegations & Advisement of Rights were issued to Complainant Buskirk and Respondent on December 2, 2020, related to the allegations specific to Complainant Buskirk. On December 23, 2020, Notice of Allegations & Advisement of Rights were issued to Complainants Schweiger, Salas, McKibben and Respondent, related to the allegations specific to Complainants Salas, et. al. and the pattern of conduct allegations.

B. Investigatory Procedures

The matter was assigned to Annamarie Delovato to conduct the investigation. As part of the investigation, the following persons were interviewed:

Allison Salas
Brittany Schweiger
Jessica Buskirk
Fiona McKibben
James Lucero
Gary Roemer
Monica Cordova
Cynthia Porro
Talesha Karish
Jared Russ
James Cain
Matthew Gompfer
Fitsum Gebreselassie
Ryaan Smith
Maura Gonsior
Matthew Gould
Lindy Gasta
Dylan Burruss
Cara Thompson
Damon Peterson
Carolina Torres
Wiebke Boeing
Martha Desmond
Hailey Peck
Tyler Wallin

The following individuals were identified as potential witnesses; however, were not able to interviewed:

Melissa Cavaretta
Andy Lawrence

Sandra Swan

A list of Exhibits and Appendices to the investigative report are included in the materials provided to the parties and the hearing officer.

C. Investigative Report, Inspection of Evidence and Response.

On May 4, 2021, a draft of the investigation report, along with all relevant evidence gathered during the course of the investigation, was provided to the parties and advisors. The parties were afforded ten (10) working days to respond to the report. On May 20, 2021, due to issues with access to the report and exhibits (provided via DropBox), the response deadline was extended until May 28, 2021. On May 26, 2021, Complainants Salas, Schweiger and McKibben submitted a response. On May 28, 2021, Complainant Buskirk submitted a response. On or about May 7, 2021, OIE received reports that Respondent was directly contacting witnesses from the Report and demanding interviews. The parties' responses to the Investigative Report and evidence are preserved in Appendix E, F, G of the Investigative Report

On July 12, 2021, the OIE Investigator submitted the Final Investigative Report to the Parties and assigned Hearing Officer.

D. Delays and Adjournments

Respondent requested and was granted a delay of hearing for 5 days because he did not understand the directions in the Notice of Hearing.

E. Live Hearing

A live hearing on the formal complaint was held on August 17, 2021, before Jacqueline Archuleta-Staehlin, esq. Hearing Officer Archuleta-Staehlin completed the ATIXA Title IX training for Hearing Officers and Decision-Makers on October 23, 2020.

The parties appeared via Zoom on August 17, 2021. Complainants were accompanied by Michelle Bernstein (Buskirk) and Azadeh Osanloo (Salas, et. al.), Advisors. Respondent was accompanied by William Boecklen, Advisor.

The following parties submitted to cross examination:

Allison Salas
Brittany Schweiger
Fiona McKibben
Talesha Karish
Tyler Wallin
Matthew Gompper

James Cain
Gary Roemer
Martha Desmond
Fitsum Gebreselassie
Dylan Burruss

The Hearing Officer was solely responsible for determining the relevance of each question posed by the advisors.

F. Findings of Fact

- The Hearing Officer reached a determination on August 31, 2021. The Final Decisions of the Hearing Officer are attached to this Notice.
- The Findings of Fact and Conclusions of Law are listed on pages 3-8 of the Notices.

G. Sanctions/Disciplinary Action, if applicable.

- The Hearing Officer imposed the discipline of TERMINATION OF EMPLOYMENT with NMSU on Respondent.
- The Hearing Officer's sanction is found on page 8 of the Final Decision.

H. Right to Appeal

Either party may appeal this determination by submitting a Notice of Appeal to the NMSU Title IX Coordinator. The appeal must be submitted no later than five (5) working days of issuance of this decision. Grounds for appeal may be found in NMSU ARP 3.25, Part 7, Standard Operating Procedures. (*See Attached*)

NMSU ARP 3.25 and [OIE Standard Operating Procedures, Process for Resolving Complaints of Discrimination](#) have been implemented pursuant to NMSU's obligations under state and federal law, including the U.S. Department of Education's [Final Title IX Rule of May 19, 2020.](#)

Sincerely,

Laura M. Castille, esq.
OIE Executive Director, Title IX Coordinator

CC: William Boecklen, Advisor for Respondent
Donald Conner, Asso. Dean

Enc. Final Decisions Dated August 31, 2021
NMSU ARP 3.25 with Standard Operating Procedures